

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
GREAT FALLS DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

ROBERT DEAN SPEARSON,

Defendant.

CR 18-86-GF-BMM-JTJ

**FINDINGS AND
RECOMMENDATIONS**

I. Synopsis

Defendant Robert Dean Spearson (Spearson) has been accused of violating the conditions of his supervised release. Spearson admitted alleged violations 1, 2 and 3. The Court dismissed alleged violations 4, 5, 6 and 7 on the government's motion. Spearson's supervised release should be revoked. Spearson should serve a term of custody from March 7, 2023 through May 9, 2023, with no supervised release to follow.

II. Status

Spearson pleaded guilty to being a Felon in Possession of a Firearm on January 8, 2019. (Doc. 19). The Court sentenced Spearson to 18 months of custody, followed by 3 years of supervised release. (Doc. 30). Spearson's current

term of supervised release began on April 1, 2021. (Doc. 59 at 2).

Petition

The United States Probation Office filed an Amended Petition on March 8, 2023, requesting that the Court revoke Spearson's supervised release. (Doc. 59).

The Amended Petition alleged that Spearson had violated the conditions of his supervised release: 1) by using methamphetamine; 2) by failing to report for substance abuse testing; 3) by failing to comply with his Radio Frequency Monitoring Program; 4) by committing another crime; 5) by possessing methamphetamine; 6) by failing to notify his probation officer of a change in residence; and 7) by possessing a firearm.

Initial appearance

Spearson appeared before the undersigned for his initial appearance on the Amended Petition on March 16, 2023. Spearson was represented by counsel. Spearson stated that he had read the petition and that he understood the allegations. Spearson waived his right to a preliminary hearing. The parties consented to proceed with the revocation hearing before the undersigned.

Revocation hearing

The Court conducted a revocation hearing on August 8, 2023. Spearson admitted that he had violated the conditions of his supervised release: 1) by using

methamphetamine; 2) by failing to report for substance abuse testing; and 3) by failing to comply with his Radio Frequency Monitoring Program. The Court dismissed alleged violations 4, 5, 6 and 7 on the government's motion. The violations that Spearson admitted are serious and warrant revocation of Spearson's supervised release.

Spearson's violations are Grade C violations. Spearson's criminal history category is IV. Spearson's underlying offense is a Class C felony. Spearson could be incarcerated for up to 24 months. Spearson could be ordered to remain on supervised release for up to 24 months, less any custody time imposed. The United States Sentencing Guidelines call for a term of custody of 6 to 12 months.

III. Analysis

Spearson's supervised release should be revoked. Spearson should serve a term of custody from March 7, 2023 through May 9, 2023, with no supervised release to follow. This sentence is sufficient but not greater than necessary.

IV. Conclusion

The Court informed Spearson that the above sentence would be recommended to Chief United States District Judge Brian Morris. The Court also informed Spearson of his right to object to these Findings and Recommendations within 14 days of their issuance. The Court explained to Spearson that Judge

Morris would consider a timely objection before making a final determination on whether to revoke his supervised release and what, if any, sanction to impose.

Spearson stated that he wished to waive his right to object to these Findings and Recommendations, and that he wished to waive his right to allocute before Judge Morris.

The Court **FINDS:**

That Robert Dean Spearson violated the conditions of his supervised release: by using methamphetamine; by failing to report for substance abuse testing; and by failing to comply with his Radio Frequency Monitoring Program.

The Court **RECOMMENDS:**

That the District Court revoke Spearson's supervised release and commit Spearson to the custody of the United States Bureau of Prisons for a term of custody from March 7, 2023 through May 9, 2023, with no supervised release to follow.

**NOTICE OF RIGHT TO OBJECT TO FINDINGS AND
RECOMMENDATIONS AND CONSEQUENCES OF FAILURE TO OBJECT**

The parties may serve and file written objections to the Findings and Recommendations within 14 days of their entry, as indicated on the Notice of Electronic Filing. 28 U.S.C. § 636(b)(1). A United States district court judge will make a de novo determination regarding any portion of the Findings and Recommendations to which objection is made. The district court judge may accept, reject, or modify, in whole or in part, the Findings and Recommendations. Failure

to timely file written objections may bar a de novo determination by the district court judge, and may waive the right to appear and allocute before a district court judge.

DATED this 9th day of August, 2023.



John Johnston
United States Magistrate Judge